

ESTTA Tracking number: **ESTTA474107**

Filing date: **05/23/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Quill Entertainment Company
Granted to Date of previous extension	05/23/2012
Address	983 North Street Greenwich, CT 06831 UNITED STATES
Correspondence information	Granville Burgess Quill Entertainment Company, Inc. 983 North Street Greenwich, CT 06831 UNITED STATES gbprodinc@optonline.net, rebabeeson@aol.com, lemanu@pbwt.com Phone:203-253-1825

### Applicant Information

Application No	85236044	Publication date	01/24/2012
Opposition Filing Date	05/23/2012	Opposition Period Ends	05/23/2012
Applicant	International/US Production Partners, LLC 4th Floor 128 E. Grant Street Lancaster, PA 17602 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Clothing, namely, bandannas, baseball caps, shirts, hats, jackets, coats, neckties, pants, polo shirts, rainwear, shorts, skirts, slacks, socks, sport coats, sport shirts, sweat pants, sweat shirts, sweat shorts, sweaters, swimsuits and T-shirts
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### Grounds for Opposition

Other	common-law basis
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Attachments	Z9999-5005.pdf ( 19 pages )(2843777 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Granville Burgess/
Name	Granville Burgess
Date	05/23/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICER  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No. 85/236,044  
Filed: February 7, 2011  
For the mark: BATTLECRY GETTYSBURG in International Class 25  
Published in the Official Gazette: January 24, 2012 at TM Page 781

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Quill Entertainment Company, Inc.,	:	
	:	
Opposer,	:	
	:	
v.	:	
	:	
International/US Production Partners, LLC,	:	
	:	
Applicant	:	
	:	
	X	

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandra, VA 22313-1451

**Attn. : TTAB - FEE**

**NOTICE OF OPPOSITION**

QUILL ENTERTAINMENT COMPANY, INC., a Pennsylvania corporation, having a place of business at Box 209, Greenwich, CT 06836 ("Opposer"), believes that it would be damaged by registration of the above-identified application for the mark "BATTLECRY GETTYSBURG" in International Class 25, Application Serial No. 85/236,044 by International/US Partners, LLC ("Applicant"), published in the Official Gazette dated January 24, 2012, at page TM 781.

Opposer has obtained the necessary extensions of time to file this Notice of Opposition and such Notice is timely made.

As grounds for opposition, it is alleged that:

781, Applicant seeks to register and use the trademark "BATTLECRY GETTYSBURG" for goods in Class 25 for "Clothing, namely, bandannas, baseball caps, shirts, hats, jackets, coats, neckties, pants, polo shirts, rainwear, shorts, skirts, slacks, socks, sport coats, sport shirts, sweat pants, sweat shirts, sweat shorts, sweaters, swimsuits and T-shirts."

Applicant's application to register the trademark "BATTLECRY GETTYSBURG" is based upon a bona fide intent to use the mark in the goods in Class 25 in commerce.

1. Opposer produced the stage musical BATTLECRY at the Riegel Auditorium, 37 Lefever Street, Gettysburg, PA from June 26, 2009-July 26, 2009, with 24 public performances. The BATTLECRY mark appeared in all advertising and promotional materials, including but not limited to: (a) programs, brochures, rack cards, posters, banners, business cards, tickets, compact discs, contracts, websites (including the website <http://battlecrymusical.com/home.html>), and print advertisements, donation request cards, and (b) clothing, namely t-shirts.

2. Opposer began creating, advertising and distributing advertising and promotional materials for BATTLECRY on or about October, 2008, and has continuously used the BATTLECRY mark in United States commerce in substantially identical form in connection with the musical BATTLECRY and related works.

3. Opposer began selling tickets to performances of the musical

BATTLECRY on or about January 2009 and has continuously used the mark in the United States commerce in substantially identical form in connection with the musical BATTLECRY and related works.

4. No issue of priority exists between Opposer's marks and the alleged BATTLECRY GETTYSBURG proposed trademark. As set out in Exhibit 1, Opposer' date of adoption and first use of the mark long precede the filing date for the intent-to-use application for the BATTLECRY GETTYSBURG mark.

5. Since adoption and first use of Opposer's mark, Opposer has continuously marketed and is presently marketing its BATTLECRY mark through merchandise (T-shirts), CDs, performance brochures, and other advertising and promotional materials in connection with the production of the BATTLECRY musical and other artistic and educational works, services and materials associated therewith (collectively, "BATTLECRY Musical"). Opposer's advertising and promotional materials are identified as originating from Opposer through the use of Opposer's name, Quill Entertainment Company, on all CDs, brochures, and other advertising and promotional materials. First use of the mark long precedes the filing date for the intent-to-use application for the BATTLECRY GETTYSBURG trademark.

6. Since adoption and first use of Opposer's mark, Opposer has expended extensive legal fees and time in protesting the attempts by the Applicant (and its associates, affiliates and partners) to exploit the musical BATTLECRY without permission.

7. Opposer continues to expend substantial time, money and effort in

promoting its mark to identify Opposer as the source of advertising and promotional materials and merchandise (T-shirts) displaying the BATTLECRY mark in connection with the production and distribution of the BATTLECRY Musical. As a result, Opposer believes and alleges that the public has come to recognize the BATTLECRY Musical, as well as merchandise (T-shirts) containing the BATTLECRY mark, as emanating from a single source.

8. Sales of BATTLECRY Musical and related goods and tickets have been supported by extensive advertising and promotions, all of which typically feature the mark. By virtue of its efforts and expenditure of considerable sums for advertising and promotional activities and by virtue of the excellence of its musical production of BATTLECRY, Opposer has gained a valuable reputation for its BATTLECRY mark and has developed valuable goodwill with respect to that mark.

9. By virtue of the continuous and widespread use by Opposer of the BATTLECRY mark, Opposer is entitled to a broad scope of protection for the mark.

10. Applicant's alleged BATTLECRY GETTYSBURG trademark obviously was intended to be, and is, an imitation of Opposer's mark, and Applicant intends to trade on the fame and goodwill of Opposer's mark. Specifically, the first word of the proposed trademark, "BATTLECRY," is identical to the first word in Opposer's mark. Thus, Applicant's mark and Opposer's mark would create similar commercial impressions.

11. Registration of the alleged BATTLECRY GETTYSBURG trademark will lead the public to conclude incorrectly that Applicant's goods displaying the BATTLECRY trademark are, or have been, authorized, sponsored or licensed by

Opposer. Accordingly, issuance of any Registration to Applicant for the BATTLECRY GETTYSBURG trademark is contrary to the provisions of 15 U.S.C. Section 1052(a), and will result in damage to Opposer and the public.

12. The alleged BATTLECRY GETTYSBURG trademark is deceptively similar to the Opposer's mark so as to cause confusion, to cause mistake or to deceive the public as to the origin of Applicant's goods bearing that mark. Therefore, registration of the alleged BATTLECRY GETTYSBURG trademark is prohibited by 15 U.S.C. Section 1052(d).

13. On information and belief, Applicant's goods displaying the alleged BATTLECRY GETTYSBURG trademark would be offered for sale to the same, or essentially the same, purchasers or prospective purchasers. Accordingly, registration of the alleged BATTLECRY GETTYSBURG trademark is likely to cause confusion, to cause mistake or to deceive the public as to the origin of Applicant's goods displaying that mark. Therefore, registration of said trademark is prohibited by U.S.C. Section 1052(d).

14. The alleged BATTLECRY GETTYSBURG trademark creates the same, or essentially the same, commercial impression as Opposer's mark. Accordingly, registration of Applicant's alleged BATTLECRY GETTYSBURG trademark is likely to cause confusion, deceive the public, or cause mistake as to the source of Applicant's goods, all to the harm and damage of Opposer and the public. Therefore, registration of said trademark is prohibited by 15 U.S.C. Section 1052(d).

15. Customers familiar with Opposer's BATTLECRY mark and goods

would be likely to purchase Applicant's goods believing them to be goods originating from or sponsored by Opposer. Any defect, objections, fault or adverse publicity in connection with Applicant's goods marketed under its alleged BATTLECRY GETTYSBURG trademark, which is confusingly similar to Opposer's mark BATTLECRY, would necessarily reflect on and seriously injure the reputation which Opposer has established for BATTLECRY Musical.

16. Registration of the alleged BATTLECRY GETTYSBURG

trademark would constitute prima facie evidence of the validity of such Registration, of Applicant's ownership of that trademark, and of Applicant's exclusive right to use said trademark pursuant to the provisions of 15 U.S.C. Section 1057(b). Such registration would be a source of damage and injury to the Opposer and to the public and would be contrary to the principles of registration set out in 15 U.S.C. Section 1051, *et seq.*

17. Registration of the alleged BATTLECRY GETTYSBURG

trademark would be incorrect and improper in view of the requirements of the Trademark Act of 1946, as amended, including specifically, but not limited to, the provisions of 15 U.S.C Sections 1051, 1052, and 1127.

WHEREFORE, Opposer prays that this Opposition be sustained, and that

Registration Serial No. 85/236,044 to Applicant for the BATTLECRY GETTYSBURG mark for the uses specified above in International Class 25 be denied.

All communications are to be directed to Granville W. Burgess at Quill

Entertainment Company, Inc., Box 209, Greenwich, CT 06836.



Opposer hereby files this Notice of Opposition electronically ("ESTTA"),

and simultaneously electronically transmits \$300.00 to cover the statutory filing fee.

Dated: May 23, 2012

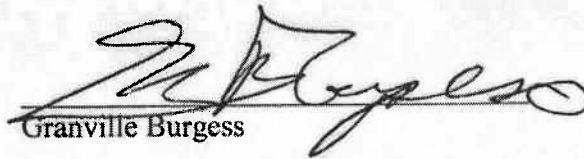
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G Burgess', written over a horizontal line.

Granville Burgess  
President & CEO  
Quill Entertainment Company, Inc.  
Box 209  
Greenwich, CT 06836  
Tel. No.:  
E-mail:

**ELECTRONIC MAILING CERTIFICATE**

I hereby certify that the Notice of Opposition is being submitted electronically through the Electronic System for the Trademark Trial and Appeal Board ("ESTTA") on this 23<sup>rd</sup> day of May, 2012.

A handwritten signature in black ink, appearing to read 'G Burgess', written over a horizontal line.

Granville Burgess

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing Notice of Opposition to be deposited with the United States Post Service with sufficient postage as first-class mail this 23<sup>rd</sup> day of May, 2012 in an envelope addressed to Applicant's attorney:

Andrew S. Langsam, Esq.  
Pryor Cashman LLP  
7 Times Square  
New York, New York 10036

  
Granville Burgess

## **EXHIBIT 1**

This exhibit contains the following documents (images) in the pages that follow

1. Fundraising Donation Card
2. Rack Card
3. BATTLECRY program
4. BATTLECRY tee-shirt (picture)
5. BATTLECRY tee-shirt receipts
6. DVD cover
7. Promotional Brochure Cover
8. Invoice: Banner Ad
9. Invoice: WYCR Radio Ad



**A NEW MUSICAL**

**I wish to make a donation and have my name listed in the program  
under the title or rank of**

☐ President (\$20,000 & up) ☐ General (\$10,000 & up) ☐ Colonel (\$5000 & up) ☐ Major (\$2500 & up)  
☐ Captain (\$1000 & up) ☐ Lieutenant (\$500 & up) ☐ Sergeant (\$250 & up) ☐ Private (\$100 & up)

**Enclosed is my check made payable to:**

Quill Entertainment Company, Box 209, Greenwich, CT 06836

in the total amount of \$\_\_\_\_\_ (Donations under \$100 are also gratefully accepted)

**Please charge my donation to my credit card:**

☐ MasterCard ☐ Visa ☐ American Express

Cardholder's name \_\_\_\_\_ Signature \_\_\_\_\_

Card number \_\_\_\_\_ Exp. Date \_\_\_\_\_

Quill Entertainment Company is a 501(c)(3) corporation. (Taxpayer ID #: 23-2973189) All donations are tax deductible.



**A NEW MUSICAL**

**I wish to make a donation and have my name listed in the program  
under the title or rank of**

\_\_\_\_ President (\$20,000 & up) \_\_\_\_ General (\$10,000 & up) \_\_\_\_ Colonel (\$5000 & up) \_\_\_\_ Major (\$2500 & up)  
\_\_\_\_ Captain (\$1000 & up) \_\_\_\_ Lieutenant (\$500 & up) \_\_\_\_ Sergeant (\$250 & up) \_\_\_\_ Private (\$100 & up)

**Enclosed is my check made payable to:**

Quill Entertainment Company, Box 209, Greenwich, CT 06836

in the total amount of \$\_\_\_\_\_. (Donations under \$100 are also gratefully accepted)

**Please charge my donation to my credit card:**

\_\_\_\_ MasterCard \_\_\_\_ Visa \_\_\_\_ American Express

Cardholder's name \_\_\_\_\_ Signature \_\_\_\_\_

Card number \_\_\_\_\_ Exp. Date \_\_\_\_\_

Quill Entertainment Company is a 501(c)(3) corporation. (Taxpayer ID #: 23-2973189) All donations are tax deductible.

Quill ENTERTAINMENT PRESENTS

A NEW MUSICAL

# BATTLECRY

A THRILLING & INSPIRATIONAL  
MUSICAL THEATER EVENT



MUSIC PAUL BOCAEV

BOOK & LYRICS GRANVILLE WYCHE BURGESS

JUNE 26  
THROUGH JULY 26, 2009

RIEDEL AUDITORIUM  
37 LEFEVER STREET, GETTYSBURG, PA

Buy tickets  
at any of our *Authorized Partners*,  
or call 724-653-6903, or online at  
[www.battlecrymusical.com](http://www.battlecrymusical.com)

Quill ENTERTAINMENT PRESENTS

# BATTLECRY

A THRILLING & INSPIRATIONAL NEW MUSICAL

BOOK & LYRICS GRANVILLE WYCHE BURGESS MUSIC PAUL DOGARV

DIRECTED BY GABRIEL BARRÉ

*...that we shall not have died in vain -- that this nation, under God, shall have a new birth of freedom -- and that government of the people, by the people, for the people, shall not perish from the earth.*

*Abraham Lincoln*

*November 19, 1863*

RIEGLER AUDITORIUM 37 LEFEVER STREET · GETTYSBURG, PA



 **ENTERTAINMENT PRESENTS**  
**A NEW MUSICAL**

# BORN IN GETTYSBURG

**BORN IN GETTYSBURG ✕ BOUND FOR BROADWAY**



**RECEIPT**

No. 344051

DATE July 24, 2009FROM Tony Larsson TEN \$10.00 DOLLARS☐ FOR RENT☒ FORBattery Tee-ShirtACCT. ☒ CASHPAID ☐ CHECKDUE ☐ MONEY ORDER☐ CREDIT CARD

FROM \_\_\_\_\_ TO \_\_\_\_\_

BY \_\_\_\_\_

A-2501

T-46820

**RECEIPT**

No. 344053

DATE 7/24/09FROM Meg Shahdadi Ten \$10.00 DOLLARS☐ FOR RENT☒ FORBattery T-shirtACCT. ☒ CASHPAID ☐ CHECKDUE ☐ MONEY ORDER☐ CREDIT CARD

FROM \_\_\_\_\_ TO \_\_\_\_\_

BY \_\_\_\_\_

A-2501

T-46820

**RECEIPT**

No. 344052

DATE July 24, 2009FROM John Larsson TEN \$10.00 DOLLARS☐ FOR RENT☒ FORBattery Tee-shirtACCT. ☒ CASHPAID ☐ CHECKDUE ☐ MONEY ORDER☐ CREDIT CARD

FROM \_\_\_\_\_ TO \_\_\_\_\_

BY \_\_\_\_\_

A-2501

T-46820



Photo by Helen S. Schwartz - Artistry in Photography

[WWW.BATTLECRYMUSICAL.COM](http://WWW.BATTLECRYMUSICAL.COM)





*Quill* ENTERTAINMENT PRESENTS

"AMERICA'S MUSICAL"

# BATTLECRY

BOOK & LYRICS GRANVILLE WYCHE BURGESS

MUSIC PAUL BOGAEV

YOU MUST SEE THIS THRILLING AND  
INSPIRATIONAL MUSICAL THEATER EVENT

[WWW.BATTLECRYMUSICAL.COM](http://WWW.BATTLECRYMUSICAL.COM)

WYCR-FM WHVR-AM  
 RADIO HANOVER, INC.  
 275 RADIO RD  
 P. O. BOX 234  
 HANOVER, PA 17331-1140  
 717-637-3831

Statement Date

7/26/2009

Statement Date

7/26/2009

**REMITTANCE ADVICE**  
 Please detach and return with payment

WYCR-FM WHVR-AM  
 RADIO HANOVER, INC.  
 275 RADIO RD  
 P. O. BOX 234  
 HANOVER, PA 17331-1140  
 717-637-3831

BATTLE CRY  
 Attn: GRANVILLE BURGESS  
 983 NORTH STREET  
 GREENWICH, CT 06831

BATTLE CRY  
 Attn: GRANVILLE BURGESS  
 983 NORTH STREET  
 GREENWICH, CT 06831

Advertiser Id: 1225

Date	Description	Ref#	Debits	Credits
7/26/2009	*Inv: Banner Ad	F66865-0000	300.00	

NET 15 DAYS. LATE FEE OF 1.5%/MONTH (18% PER ANNUM) MAY APPLY.

Apr	May	Jun	Jul	Total
0.00	0.00	0.00	300.00	300.00

Balance Due 300.00

Charges or Payments received after this date will appear on next statement

Terms:

Advertiser Id: 1225

Date	Ref#	Amount
7/26/2009	*Inv F66865-0000	300.00

**Aging Analysis**

Apr +	0.00
May	0.00
Jun	0.00
Jul	300.00
Balance Due	300.00

WYCR-FM WHVR-AM  
RADIO HANOVER, INC.  
275 RADIO RD  
P. O. BOX 234  
HANOVER, PA 17331-1140  
717-637-3831

F66865-0000	7/26/2009	1
<b>Official Invoice</b>	<b>Date</b>	<b>Page</b>

DETACH AND RETURN WITH PAYMENT

F66865-0000 O 7/26/2009 1

BATTLE CRY  
Attn: GRANVILLE BURGESS  
983 NORTH STREET  
GREENWICH, CT 06831

Purchase Order Number:

Est. Number:

Co-Op:

**Description:** Banner Ad

Salesperson: Taylor, Chris

Date	Day	Length		Qty	Rate	Total
7/15/2009	Wed		WYCR-FM			300.00

NET 15 DAYS. LATE FEE OF 1.5%/MONTH (18% PER ANNUM) MAY APPLY.

Quantity	Total	300.00
Total Due		300.00

# INVOICE